

CONSERVATORSHIP

2

Get a Permanent Appointment for an Adult

Part 2: Service and Notice
of the Court Hearing
(Instruction Packet)

Self Service Center

CONSERVATORSHIP

GET A PERMANENT APPOINTMENT FOR AN ADULT

Part 2: Service and Notice of Court Hearing (Instructions Only)

How to assemble these documents

This packet contains instructions for service and notice of court hearing to get a permanent appointment for an adult. Be sure the documents are in the following order:

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SELF-SERVICE CENTER

INFORMATION ON LEGAL NOTICE FOR CONSERVATORSHIP FOR AN ADULT

- 1. WHAT IS LEGAL NOTICE:** After you have completed **AND** filed the Conservatorship Petition and other court papers with the Court, you must tell **all** interested persons about the papers and Court hearing.

A. WHAT COURT DOCUMENTS DO I NEED TO GIVE NOTICE ABOUT?

These are the documents you need to give the people who are entitled to notice:

- **NOTICE OF HEARING:** This document provides you with the hearing date, location, and the name of the Judge/Commissioner who will hear the case.
- **PETITION:** This document explains to the Judge/Commissioner what you want the Judge/Commissioner to do in this matter, and why.

It is recommended that you give people entitled to notice **all** copies of documents you file with the court so you know you gave people copies of the right documents. You then must list in the PROOF OF NOTICE (see section C, below) the names of all the documents you gave copies of, and the people to whom you gave those copies.

B. WHAT ARE THE WAYS TO GIVE LEGAL NOTICE?

- **“Personal Service”** means giving formal notice that is required in some cases for some persons. It requires that a registered process server or the sheriff serve the documents on interested persons or that a person accept service of the papers. When personal service is required, it means the law is written to make sure that a person who needs notice of a case is given that notice.

Note: See **Step 4** for instructions on how to give personal service.

- **Mail or hand delivery** is a less formal but important way of giving notice to other persons in some cases. When you are required to give notice by mail, 1st class postage-prepaid mail is usually acceptable. Certified or registered mail with return receipt is an extra step you can take to prove that the person you want to have notice received the notice.

Note: Service by **mail or hand delivery** is only allowed in some cases, so make sure you read the instructions to see if you can use this method of service.

- **Publication of Notice** is when you do not know the address of the person to whom you need to give notice. For publication, you need to try to find the person who is supposed to get notice, and prove to the Court you did everything you could to try to find the person or the person's address. Then, you must publish the Notice at least **3 times** in a newspaper in the county where the Court hearing is held. See ARS 14-1401.

C. HOW DO I SHOW THAT I GAVE LEGAL NOTICE?

- **PROOF OF NOTICE** is the document you sign and file with the Court to prove ~~who~~ you gave notice to **all** interested persons, and how you did it. You must fill out this form after you have served the documents on all interested persons (See **Step 1A**). There are other documents that go with the PROOF OF NOTICE to show that service was made. These documents may include the following:

- 1) AFFIDAVIT OF PUBLICATION,
- 2) AFFIDAVIT OF SERVICE signed by the process server or sheriff, **OR**
- 3) ACCEPTANCE OF SERVICE.

D. WHEN CAN YOU SKIP GIVING LEGAL NOTICE?

- WAIVER OF NOTICE is when a person required to get notice waives this right, and signs the WAIVER OF NOTICE. Generally, but not always, a person who is required to be **personally served** can accept service by signing the WAIVER OF NOTICE. However, if the ward who needs the conservator signs the waiver, the ward must also attend the hearing or service is not good, **OR**
- Party is present at the hearing and will accept service. Only rely on this method if you are **absolutely** certain the person will be at the hearing and will accept Service.

- 2. TIME FRAMES TO GIVE LEGAL NOTICE:** Generally, you must give **all** interested persons notice of the court papers at least **14 days** before the hearing. If you are giving notice by NOTICE BY PUBLICATION, the first publication must be at least **14 days** before the hearing.

Note: The newspaper will not provide the AFFIDAVIT OF PUBLICATION to you until all **3 notices** have been published.

- 3. WHO IS ENTITLED TO LEGAL NOTICE:** Here is a guide when, and to whom, you must give notice of conservatorship of an adult (ARS 14-5405):

- **INCAPACITATED ADULT:** Notice must be personally served on the protected person or the person who needs protection, if the person can be found within the State of Arizona. If the adult who needs protection does not live in the State of Arizona, you can give Notice by **personal service**, **registered mail** or **publication** if you do not know where the individual lives.

Note: WAIVER OF NOTICE by the incapacitated adult is not legal unless the adult attends the court hearing in person.

- **PARENTS OF INCAPACITATED ADULT:** If the parents of the person who needs protection can be found within the State of Arizona, they must be **personally served**. Otherwise, you can give notice by **mail**, **hand-delivery** or **publication**.
- **OTHERS:** Any person serving as guardian or conservator or who has the care and custody of the person who needs protection, and anyone who has filed with the court a REQUEST FOR NOTICE, such as creditors of the person, can be served by **mail**, **hand-delivery** or **publication**.

Note: Notice must be given at least **14 days** before the hearing date.

- 3. THE METHODS OF PERSONAL SERVICE:** There are several ways to give personal service that will be accepted by the Court.

- **Acceptance of Service:** The person must sign the Acceptance form in front of a notary and return it to you, but the signature date cannot be earlier than the date you filed the court papers. The signature on this form does **not** mean the person agrees with the papers. It means that he or she admits receiving the papers, without being served in person by a Sheriff or Process Server.

- **Process Server:** You generally must pay this person or company to do this for you. A process server will give the papers to the person at home, work, or other location. The process server will give the Court a sworn Affidavit stating that the person was served. The disadvantage of this method is the cost and that it requires the process server to find the person. If you decide to use this method, look under "PROCESS SERVER" in the Yellow Pages to find someone who can serve your papers.
- **Sheriff:** This method requires you to contact the Sheriff's Office in the County where the person lives to arrange for a Sheriff's deputy to serve the papers. This method requires you to pay a fee to the Sheriff's office, unless you receive a Waiver or Deferral, which is available through the Court for persons who cannot afford the cost of Service. The Waiver or Deferral will require you to explain to the Sheriff why your circumstances call for this method.

5. WHAT ELSE TO KNOW ABOUT LEGAL NOTICE: Even if you are required to **personally serve** someone, you still have to give notice by **mail** or **hand-delivery** to other interested persons. You will still have to sign and file the PROOF OF NOTICE to show the Judge/Commissioner that you gave notice to everyone as required by law.

6. HOW DOES A PERSON WHO GETS NOTICE OBJECT TO THE PETITION: Sometimes a person who receives notice wants to object to the Petition, or tell the Judge/Commissioner something besides what is in the Petition. For more information on objecting to a court process, see Guardianship and/or Conservatorship Packet 3 called ***To Object to a Court Proceeding***, which includes Court forms and instructions to file a written Response.

7. COMPLETE THE NOTICE OF HEARING AND PROOF OF NOTICE: After Notice is done, you must complete the PROOF OF NOTICE form. Be sure to list the copies of papers given, and the names of the persons to whom you gave the copies. Also list the date you gave the person copies, the type of service, and the relationship between the person to whom you gave copies and the person-for whom the conservator is or will be appointed (This person is called the ward). Be sure the attorney for the ward gets copies, if applicable.

Make **3 copies** of the NOTICE OF HEARING, the PROOF OF NOTICE, the ACCEPTANCE OF SERVICE (if any), and the WAIVER OF NOTICE (if any). Assemble them in **4 packets**: the originals and 3 complete sets of copies.

8. FILE THE NOTICE OF HEARING, ANY WAIVER, AND PROOF OF NOTICE:

A. PREPARE TO FILE: At least **10 business days** before the scheduled hearing date, file the following with the Clerk of the Court, Probate Registrar

- NOTICE OF HEARING,
- PROOF OF NOTICE, **AND**
- any WAIVER OF NOTICE or ACCEPTANCE OF SERVICE, if applicable.

B. GO TO THE CLERK: Take the **original and 2 copies** of the NOTICE OF HEARING PROOF OF NOTICE and WAIVER OF NOTICE/ACCEPTANCE OF SERVICE (if applicable) to the Probate Registrar who will file the original and stamp "copy" on each of the **2 copies** and return them to you.

C. GO TO PROBATE ADMINISTRATION: Take **1 conformed (date-stamped) copy** of the NOTICE OF HEARING, PROOF OF NOTICE and WAIVER OF NOTICE/ACCEPTANCE OF

SERVICE (if applicable). Probate Administration will give these to the Judge/Commissioner who will hear the case.

Note: Keep a copy of each document for your records and bring them with you to the court hearing.

9. NEXT STEPS: Now you are ready to prepare for the court hearing, and get the rest of the paperwork in order.

10. OTHER HELP: If you still have questions about this procedure, you can ask a lawyer for legal advice. You can look up a lawyer in the telephone book under "attorneys." Also, the Self-Service Center has a list of lawyers who will help you help yourself. The list shows where the lawyers are located, how much they charge to look over the court papers or answer your questions, and what their experience is. **All forms referred to in these instructions are available at the Self-Service Center.**

SELF SERVICE CENTER

PROCEDURES: HOW TO SERVE LEGAL PAPERS – ACCEPTANCE OF PERSONAL SERVICE

GUARDIANSHIP, CONSERVATORSHIP, INFORMAL PROBATE OF ESTATES (After you have filed your court papers)

STEP 1: ASK THE PERSON TO ACCEPT SERVICE OF THE PAPERS:

(A) If the person goes with you to the filing counter:

GIVE: Give the other person his or her set of copies.

DO: Stay at the counter. The person must now sign the original ***“Acceptance of Service”*** in front of the Clerk. The Clerk will notarize the other person's signature FREE. The other person must have valid picture identification with him or her. **OR**

(B) If the person will not or cannot go with you to file papers:

SET: Arrange a meeting place and time with the person before a Notary Public. Give the person his or her set of copies. Have the original of the court papers with you in case the person wants you to prove that you have it. **OR**

(C) If you cannot give the person the papers by hand:

MAIL: Mail all the copies to the person with an explanation, such as the form letter attached.

GET: The person must sign the original Acceptance and write the date he/she signed on the Acceptance. The signature must be in front of a notary public. You should write the date the person signed the Acceptance on your copy. The person cannot sign the Acceptance until after the documents have been filed with the Court.

NOTE: If the person does not send back the Acceptance, ask him or her again to send it back. If he or she still does not send it back, then you have to serve him or her by one of the other processes.

STEP 2: FILE THE ACCEPTANCE OF SERVICE AT THE COURT:

GO: Go back to the Clerk of the Court where you filed your original court papers and file the original of the ***“Acceptance of Service”*** signed by the person.

GIVE: Give the Clerk the Originals of the following documents:
1. **NOTICE OF HEARING**
2. **ACCEPTANCE**, signed by the person in front of a notary public
3. **WAIVER OF NOTICE** if person signed one

DO NOT BRING CHILDREN TO COURT.

(YOUR NAME)

(ADDRESS)

(CITY/STATE/ZIP CODE)

(TELEPHONE NUMBER)

(DATE)

(PERSON'S NAME)

(ADDRESS)

(CITY/STATE/ZIP CODE)

Re: Acceptance of Court Papers for _____

Dear _____
(PERSON'S NAME)

I have filed court papers for (list title of petition or complaint here)_____. Enclosed is a copy of the following papers for you: (WARNING: at the least, documents listed should include Petition on whatever matter is before the court, and Notice of Hearing on the Petition)

1. _____
2. _____
3. _____
4. _____
5. _____

I have also enclosed an Acceptance of Service which I would like you to sign in front of a Notary Public and return to me in the self-addressed stamped envelope to save me the cost of service of process.

Even if you sign the Acceptance, you still have the right to object to the court case. If you disagree with what is in the Petition, you can file a written Objection to the part you disagree about. You can also come to the court hearing and tell the judge what you think about the Petition.

Sincerely,

(YOUR SIGNATURE)

Enclosures

SELF SERVICE CENTER

PROCEDURES: HOW TO SERVE LEGAL PAPERS-- BY PRIVATE PROCESS SERVER

GUARDIANSHIP, CONSERVATORSHIP, INFORMAL PROBATE OF ESTATES (Arrange for service ONLY after you have filed your court papers)

STEP 1 ARRANGING FOR SERVICE:

- Find a Private Process Server by looking up in the Yellow Pages under "Process Servers."
- There is a filing fee for all Petitions or Complaints, and Responses or Answers, and there are Service Fees. You may request a Waiver or Deferral of the filing fees (and the Sheriff's Service Fees if you intend to use the Sheriff's Office for service) at the time you file your papers with the Clerk of the Court.

STEP 2 DOCUMENTS NEEDED FOR SERVICE:

Give the following documents to the Process Server:

- A set of copies of the court papers for the person being served,
- A picture or a written physical description of the other person,
- A written description of the automobile that the other person drives,
- The address where the other person can be served.
- The cash you need to pay for this service. (You can call ahead of time to ask the Process Server how much money it will cost.)

STEP 3 AFTER SERVICE IS GIVEN:

- Wait until Service is given. The Process Server will mail you a copy of the AFFIDAVIT OF SERVICE after he or she serves the other person with the papers.

Note: If the Process Server does not file an AFFIDAVIT OF SERVICE with the Clerk of Court, you must get the Affidavit from the Process Server and file it.

DO NOT BRING CHILDREN TO COURT.

SELF SERVICE CENTER

PROCEDURES: HOW TO SERVE OF LEGAL PAPERS-- BY SHERIFF

**Guardianship, Conservatorship, Informal Probate of Estates
(Arrange for service ONLY after you have filed your court papers)**

STEP 1 ARRANGING FOR SERVICE:

- Go to the sheriff's office with the papers for Service. The Sheriff's Office is located in downtown Phoenix. Even if you file your case at the Southeast Court in Mesa or at the Northwest Court in Surprise, you must still come to the Sheriff's office to arrange for Service. The address for the Sheriff's office is:

The Sheriff's Office
201 West Jefferson Street
Central Court Building
Phoenix, Arizona 85003
(602) 256-1835

- There is a filing fee for all Petitions and there are Service Fees. You may request a WAIVER OR DEFERRAL OF FILING FEES (and the Sheriff's Service Fees if you intend to use the Sheriff's Office for service) at the time you file your papers with the Clerk of the Court.

STEP 2 DOCUMENTS NEEDED FOR SERVICE:

- Complete the attached sheet for identifying the other person (Page 2) and bring the following with you to the Sheriff's office:
 - 1) A set of copies of the court papers for the person being served.
 - 2) A picture or a written physical description of the other person.
 - 3) A written description of the automobile the other person drives.
 - 4) The address where other person can be served.
 - 5) A Certified Order Waiving/Deferring Fees or a **\$200.00 deposit** fee payable with cash or money order.

STEP 3 AFTER SERVICE IS GIVEN:

- The Sheriff will mail you a copy of the AFFIDAVIT OF SERVICE after he or she serves the other person with the papers. The Sheriff may also file these papers instead of sending them back to you, however, make sure that the Affidavit was filed.

(YOUR NAME)

(ADDRESS)

(CITY/STATE/ZIP)

(TELEPHONE NUMBER)

(DATE)

(COUNTY) County Sheriff

(ADDRESS)

(CITY/STATE/ZIP)

NAME OF PERSON TO BE SERVED: _____

COURT CASE NUMBER: _____

I enclose a copy of the following documents: (LIST ALL DOCUMENTS YOU WANT TO BE SERVED)

1. _____
2. _____
3. _____
4. _____
5. _____

Please serve these papers on the person. His or her current address and physical description are:

(OTHER PERSON'S NAME) _____
(WORK ADDRESS)

ADDRESS) _____
(HOME
(WORK CITY/STATE, ZIP)

(HOME CITY/STATE/ZIP)

SEX	RACE	BIRTH	HGT.	WGT.	EYES	HAIR	SSN

Please return a notarized Affidavit of Service to my address at your earliest convenience. Maricopa County Superior Court requires that each document served be named in the affidavit of Service.

☐ I enclose a deposit for \$200.00. I understand there is a \$16.00 service fee, \$2.40 per mile, one way, for each attempt at service travel fee, and a \$8.00 notary fee. I understand the difference between my deposit and the fees accrued for service will be billed or returned to me. **OR,**

☐ I enclose a certified copy of the Order for Waiver/Deferral of fees for Service of Process.

Thank you for your cooperation in this matter.

Enclosures _____
(YOUR SIGNATURE)

SELF SERVICE CENTER

PROCEDURES: HOW TO SERVE LEGAL PAPERS -- BY PUBLICATION

GUARDIANSHIP AND CONSERVATORSHIP CASES AND PROBATE OF ESTATE CASES

(Arrange for service after you have filed your papers in court)

STEP 1: HOW TO PUBLISH. If you are publishing notice, you should complete the attached letter, describing the documents that need to be referenced by the newspaper for the publication.

A. PUBLICATION - IF YOU ARE PAYING THE PUBLICATION COSTS YOU MAY USE:

THE RECORD REPORTER (602-417-9900). Ask the Clerk of the Court where to find the **DROP BOX**. Drop in a copy of the letter, the documents, and a \$40.20 money order payable to The Record Reporter. Or use another newspaper that publishes in this county. **OR**

B. PUBLICATION - IF YOU HAVE A COURT ORDER WAIVING/DEFERRING COSTS USE:

THE RECORD REPORTER (602-417-9900). Ask the Clerk of the Court where to find the **DROP BOX**. Drop in the **"Certified Order Waiving/Deferring Costs"** and a copy of the letter and the documents.

Notice: There is a filing fee for all petitions and there are service fees. You may request a **"Waiver or Deferral of the Filing Fees"** (and the Sheriff's or Publication service fees if you intend to use the Sheriff's Office or publication for service) at the time you file your papers with the Clerk of the Court.

STEP 2: WAIT for the newspaper to send you a copy of the document called **"Affidavit of Publication"** in about five weeks. If the newspaper sends you an original, file the original. Otherwise, make sure the original **"Affidavit of Publication"** gets filed.

STEP 3: GATHER THE PAPERWORK:

- COMPLETE the original of the **"Affidavit of Circumstances and Service by Publication"** document which is attached.
- If the **"Affidavit of Publication"** has not been filed by the Newspaper, make sure it gets filed by using the attached **"Affidavit of Publication Form"**.
- Make a COPY for yourself of the **"Affidavit of Circumstances and Service by Publication"** and **"Affidavit of Publication"**.

STEP 4: FILE YOUR DOCUMENTS WITH THE COURT.

- Original of the **"Affidavit of Circumstances"** and **"Service by Publication"** and copy of the publication, and,
- Original of the **"Affidavit of Publication"** you received from the newspaper unless the newspaper filed it for you. Make sure you bring a copy of the Affidavit of Publication to the hearing.

DO NOT BRING CHILDREN TO COURT.

Print Your Name: _____

Your Address: _____

Date: _____

Name of Newspaper

Address

To Whom It May Concern:

I need to publish notice in the newspaper about the following matter: Probate Court Case No. _____,
about the following: (check one box)

☐ Guardianship and/or Conservatorship matter about (name of person with guardian and/or conservator)

OR

☐ Estate of _____, deceased
Print Name

Enclosed is a copy of the following document stamped by the Clerk of Court (check which box applies):

☐ "Notice of Hearing" for matter about guardian and/or conservator, OR

☐ "Notice to Creditors" for probate of an estate

Please publish a Notice in your newspaper about this court case once a week for three successive weeks. Also enclosed is (check one box)

☐ A check or money order in the amount of \$ _____ for the cost of the publication as requested,
OR,

☐ A certified copy of the Order from the court waiving/deferring the publication costs.

When you receive this letter, please call me at (602) _____ to tell me when the first publication will occur. When all three weeks of publication have been completed, please file the original and send me one copy of the Affidavit of Publication.

Thank you for your help in this matter.

Yours truly,

Sign your name

Enclosures